

March 05, 2018

Mr. Lakeith Amir Sharif
#1505967
LeBlanc Prison Unit
3695 FM 3514
Brenham, Texas 77425

Attn: Hon. Judge Keith P. Ellison
United States District Court
Southern District of Texas
515 Rusk Street
Houston, Texas 77002

United States Court
Southern District of Texas
FILED

MAR 08 2018

David J. Bradley, Clerk of Court

Re: Case No. 4:14-cv-1698.
David Bailey vs. Bryan Collier, et al.,

Dear Judge Ellison:

In all due respect this is
written to your attention to ask that you set
aside time to conduct a hearing and enter
a written ruling(s) or enter your ruling(s) in
open court and on record in connection with
the motion entitled "Emergency Motions
of Class; Subclass Members for A Stay of The
(1 of 3)

Proceedings; Judicial Notice; Appointment of Independent Counsel; Declaratory Relief; And Request For Injunctive, Equitable And All Other Relief Authorized By Federal Law."

This motion dated February 28, 2018, and mailed should be filed by the U.S. District Clerk David Bradley as of now. PLEASE INSURE THAT I am served with advanced notice of the hearing date. Now to clarify for you and the attorneys involved and all interested parties. "None" of the undersigned class members who signed the motion ARE REQUESTING OR SEEKING TO FORCE THE TDCJ TO house them at the Pack Unit. Those who DESIRE to remain a part of the CASE simply SEEK to continue to be protected from the deadly summer heat by being housed in a climate controlled ENVIRONMENT! It's up to TDCJ to decide which of their prisons that can be adequately accomplished at!

I particularly do not care where I am
(2013)

housed in a climate controlled environment
of 88° or less heat index, so long as it
"is not" the Pack I prison; because of
my family & friends legitimate concerns that
I will likely be the target of Retaliation
by other inmates (and possibly staff) due
to the very active role I am taking in
this litigation on behalf of me and my peers
from Ramsey II Prison Unit. I promised that
I would share their concerns for my safety with
you as it relates "only" to my being housed at
Pack I.

None of ^{us} feel good about the clandestine
 manner in which these settlement negoti-
 ations have and continue to be conducted. If
 anyone had been done as we have and had their
 lives turned upside down for a cause only to later
 be thrown out to the crows, they wouldn't
 like it either.

LAS/(1) enclosure

cc: Kaylee, Director Making the Walls Transparent; Paul
 Wright, Edible Person Legal News; Gabrielle Banks, Houston
 Chronicle

~~Edible Person Legal News~~
 (3 of 3)

FEATURE | FILED 7:00 a.m. 10.11.2017

“Cooking Them to Death”: The Lethal Toll of Hot Prisons

AS THE CLIMATE CHANGES, INMATES WITHOUT AIR-CONDITIONING HAVE NO ESCAPE FROM EXTREME HEAT.

Text and video by The Marshall Project,
The Weather Channel, and Divided Films

By MAURICE CHAMMAH

Additional Reporting by JOHN CARLOS FREY

Video produced by ABBY ELLIS, MAURICE CHAMMAH and SALLY GRANATSTEIN

Graphics by ALEX TATUSIAN

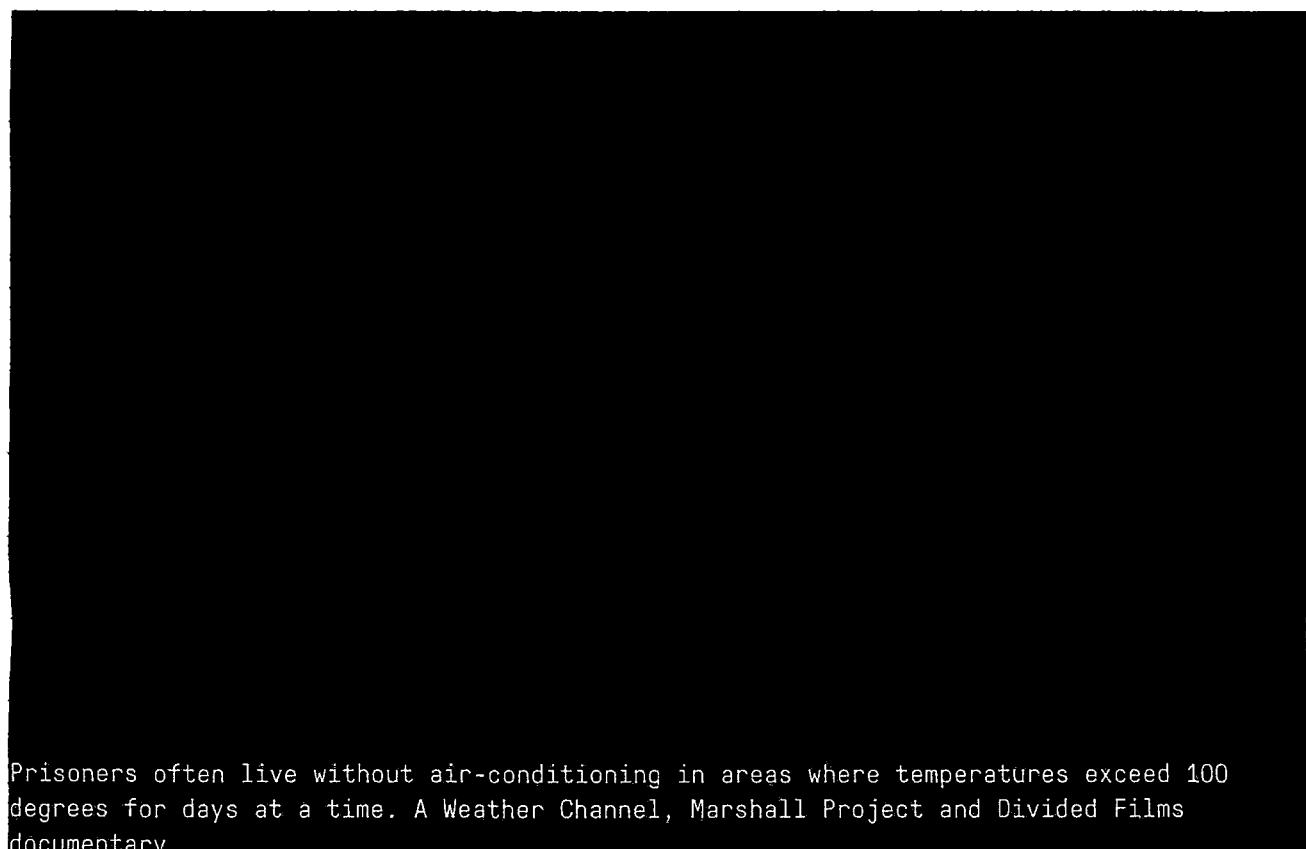
On Mother's Day in 2011, Sidney Webb stunned his mother by suggesting that they visit his younger brother Allen in prison. As boys, he and Allen fished and got into mischief together but over the years had grown estranged. Allen struggled with alcohol and occasionally landed in jail, while Sidney built a life as a fire chief and funeral supply store owner near Houston. When their father, who had lung disease, fell and suffocated to death while Allen was with him, Sidney blamed him for not calling 911 sooner.

In 2009, Allen called from prison. He had been convicted of robbery. "I told him he was dead to me," Sidney said. "I didn't mean it, but I was trying to reach him, to say, 'This is the end of the line.'"

While incarcerated, Robert Allen Webb (his full name) was diagnosed with below average cognitive ability and housed with other developmentally disabled prisoners. Over time, Sidney grew to see his brother's behavior as more than just a series of bad choices. "Christ forgave us all," his wife told him. "What gives you the right not to forgive your brother?"

That May morning, Sidney believed that God wanted him to make amends. He helped his mother into his truck and drove three hours north, past the pine forests that dot rural east Texas, to the state prison known as the Hodge Unit. Through a window in the visitation room, Sidney saw a man shuffling toward them, escorted by officers.

That can't be Allen, he thought.



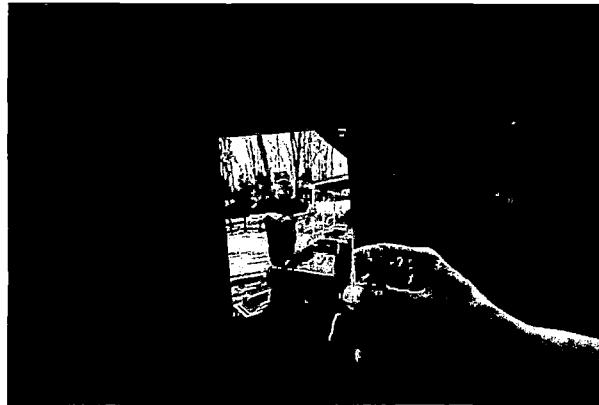
Prisoners often live without air-conditioning in areas where temperatures exceed 100 degrees for days at a time. A Weather Channel, Marshall Project and Divided Films documentary.

His brother appeared pale and gaunt. Allen asked for a Coca-Cola from a vending machine, which he downed before ordering another and another. Can't you buy these from the commissary? Sidney asked. Yes, Allen said, but the cans would explode, because it was so hot in his cell. The heat was so severe, in fact, that Allen hinted he might not make it out of prison alive. If he died there, he said, the family should just let the prison bury him — he'd put them through enough.

Sidney waved off his brother's gloomy talk and promised they'd go fishing when he got out.

A few months later, the news came in a call from a prison chaplain. "I'm sorry to inform you that your brother has passed away," he told Sidney. Then the chaplain said something unexpected: When Allen's body was found, it was hot to the touch. The chaplain was sure the heat had killed him and suggested that Sidney investigate.

Looking back, Sidney said, he was naive for not heeding Allen's warnings. But he reserves his harshest judgment for the Texas Department of Criminal Justice. "They murdered my brother," he said.

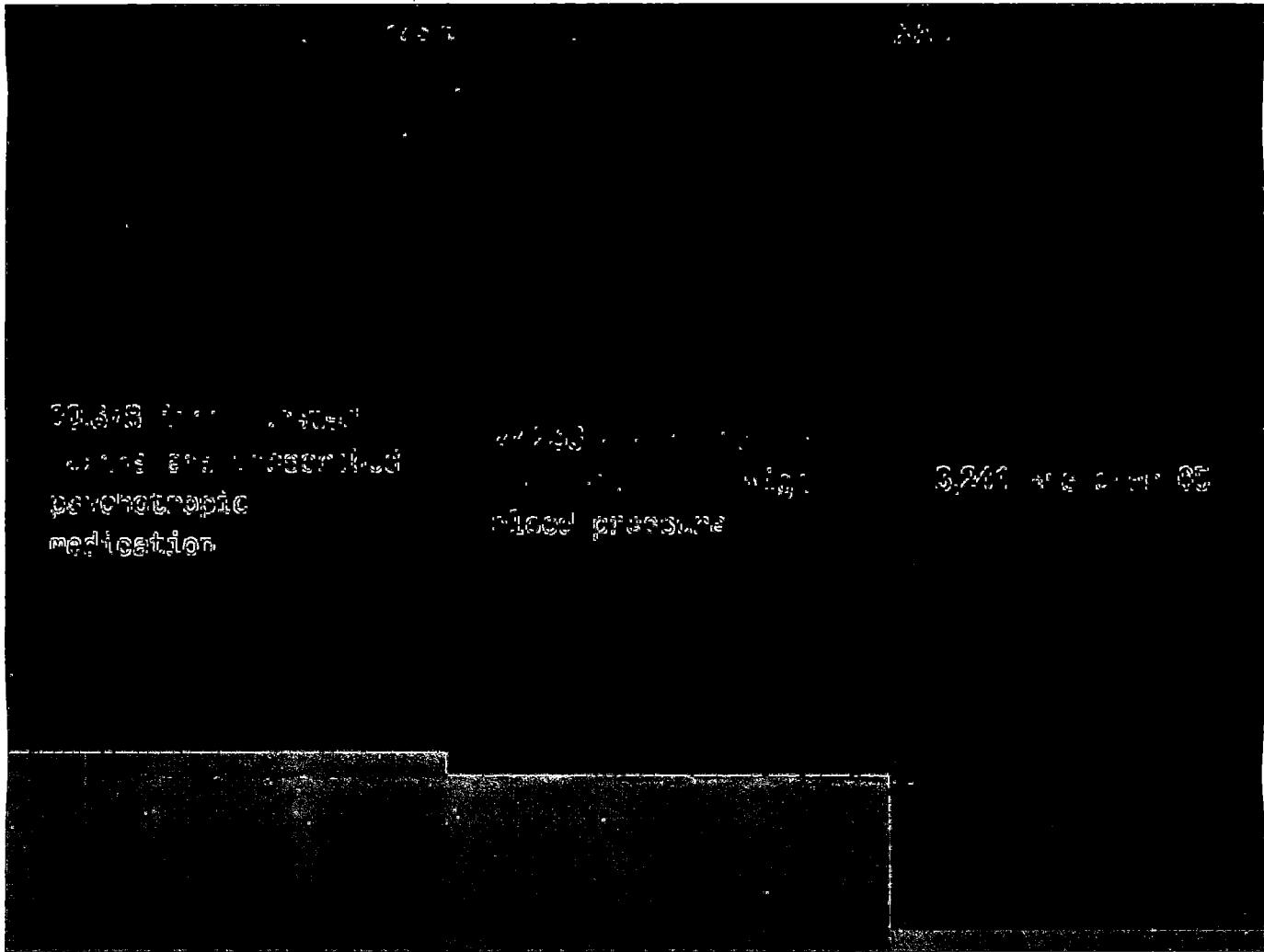


Robert Allen Webb reported dizziness shortly before his death in 2011, after a month that featured 18 days that climbed above 100 degrees. BRYAN SCHUTMAAT FOR THE WEATHER CHANNEL AND THE MARSHALL PROJECT

Most Americans have felt the effects of an increasingly hotter planet. In recent decades, changes in climate have brought higher average temperatures and longer heat waves. But few are as vulnerable to weather trends as incarcerated people, a point underscored in August when thousands were evacuated from Texas prisons ahead of Hurricane Harvey. While some state prison systems — plus federal prisons and military detention facilities, including Guantanamo Bay — keep temperatures within a liveable range, many do not, according to a 2015 Columbia Law School report. Prisoners often live without air-conditioning in areas where temperatures exceed 100 degrees for days at a time and the heat index, which records how hot it feels with humidity, has hit 150 degrees.

The human body is built to cool itself by sweating and dilating blood vessels, but those self-cooling mechanisms can break down. “When the humidity is really high, the sweat can’t evaporate,” said Susi Vassallo, M.D., a New York University professor in emergency medicine who studies thermoregulation. “It just rolls off your body, without cooling it.” Heat stroke victims may become delirious and start seizing and convulsing. “The cells of the body start to cook and fall apart,” said Vassallo, who has testified against prison agencies in lawsuits over heat conditions.

Certain medications, health conditions, and even old age can make incarcerated people more vulnerable to heat.



SOURCE: UNIVERSITY OF TEXAS MEDICAL BRANCH AND TEXAS DEPARTMENT OF CRIMINAL JUSTICE

Although there are no national figures on how many prisoners die of heat illness, horror stories emerge every summer: inmates screaming "Help us!" out of the windows of a St. Louis jail; New Hampshire men flooding their scorching cells to cool them down; Arizona prisoners whose shoes melt in the sun.

A growing segment of the incarcerated population is especially heat-sensitive. Jails and prisons house an increasing number of people with mental illness; as many as one in five Texas prisoners are prescribed psychotropic medications, which make the body more vulnerable to heat. A similar number receive blood pressure drugs, which can cause the same problem. And the rise of longer sentences in the 1980s and 90s has produced a surge of older prisoners, who are particularly susceptible to heat illnesses.

There is a way to prevent heat stroke in prison, of course: cooling the facilities during the hottest months. But in most states, there's little political will to do so. On its corrections department website, Florida lists the availability of air-conditioning as one of many "misconceptions" about its prison system, along with cable television. "We couldn't afford to do it if we wanted to," State Sen. John Whitmire, who chairs the Texas Senate's criminal justice committee, told an interviewer in 2011 about air-conditioning in prisons. "But number one we just don't want to." Whitmire, a Democrat, did not respond to a request for comment.

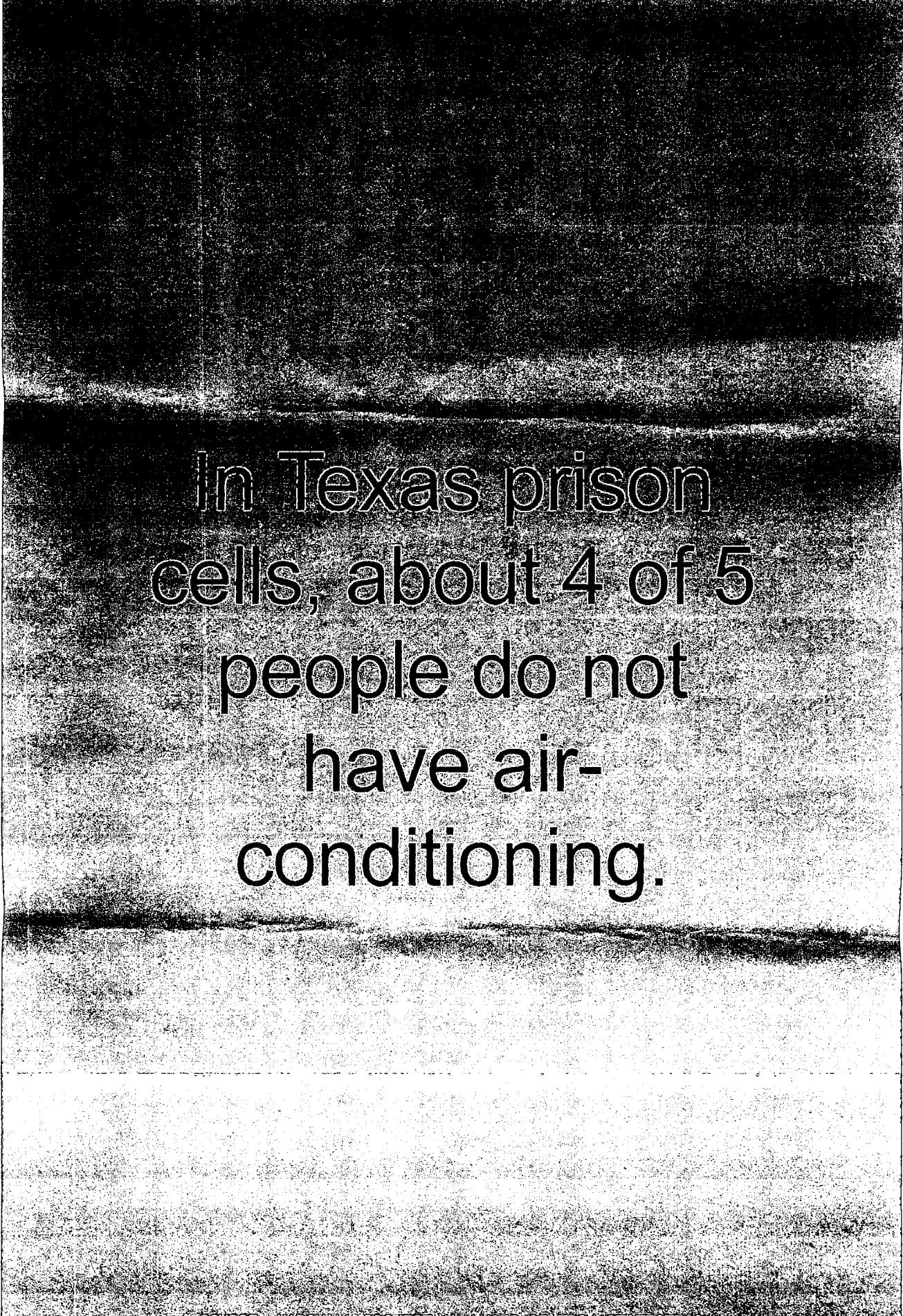
Among roughly 150,000 people in Texas prisons, about four in five have no access to air-conditioning in their cells. "The retort was always that if our soldiers in Iraq could manage in un-air-conditioned tents, that was good enough for prisoners," recalls Michele Deitch, former general counsel for the state senate's criminal justice committee. (The military now provides air-conditioning in many tents in Iraq and Afghanistan.) But unlike soldiers, prisoners have limited ability to adapt to heat; they can't always catch a breeze outside or access cool water.



Lance Lowry, head of the Texas correctional officer union, said that the number of attempted suicides among prisoners usually rises in the summer. BRYAN SCHUTMAAT FOR THE WEATHER CHANNEL AND THE MARSHALL PROJECT

Unable to sway policymakers or corrections officials, inmates and their families are taking their complaints to the courtroom. In the past several years, courts in Arizona, Mississippi, and Wisconsin have sided with prisoners suing officials over extreme heat. In 2012, a federal judge ordered the Louisiana State Penitentiary to lower temperatures on death row to 88 degrees; at times, the heat index had reached 109.

But Texas is the center of the legal battle. More than 20 state prisoners have died from the heat since 1998. It's unknown how many more succumbed to heart attacks and other ailments in which heat was a contributing factor. The Texas Department of Criminal Justice is facing numerous wrongful death lawsuits, one of them mounted by Robert Allen Webb's family, along with a class action suit to force cooler conditions at the Wallace Pack Unit in Navasota, about 70 miles northwest of Houston.



In Texas prison
cells, about 4 of 5
people do not
have air-
conditioning.

SOURCE: MARSHALL PROJECT ANALYSIS OF TDCJ STATISTICS

The state has claimed that air-conditioning prisons would be prohibitively expensive. Just cooling the Pack Unit would cost \$1.2 million every summer, officials estimated in court. In August, U.S. District Court Judge Keith Ellison concluded that the cost would likely be closer to the plaintiffs' estimate, \$110,000, and ordered the state to provide temporary relief for prisoners deemed heat-sensitive. About 1,000 prisoners were moved from the Pack Unit to air-conditioned facilities.

Texas officials also argue that dangerously hot weather is rare. In the summer of 2011, Webb was one of 10 prisoners who died during a prolonged heat wave, which one study found was 20 percent driven by climate change. In a lawsuit, the state called that "an extremely unusual and unexpected heat event which is likely not to be repeated."

But climate experts predict that soon extreme heat waves won't be unusual — and that prisons should brace for a future in which potentially deadly temperatures are the norm. Linda Mearns, a researcher at the National Center for Atmospheric Research in Colorado, wrote a report on behalf of the Texas plaintiffs stating that "by the middle of this century the ratio of record-breaking high to record-breaking low temperatures would increase to 20 to 1." The research group Climate Central estimates that by 2060, large swaths of Texas will experience more than 50 days of temperatures over 100 degrees if current trends in greenhouse gas emissions continue.

Over the span of his 35-year incarceration for sexual assault, Dennis Kelly witnessed the shift in Texas weather.

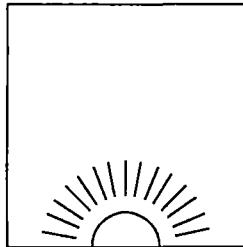
In 1977, summer days were hot, especially when Kelly hoed corn in the fields, but nights were cool. In winter, he'd cover his windows with cardboard to keep out frigid air, and snow would sometimes blanket the fields. But year by year, cold winters "just seemed to disappear," he said. By the time of his release in 2012, summer nights no longer provided refuge, and men were passing out in their cells from the high temperatures. "There is something to this global warming," he said.

The first inmate to sue Texas over the heat was Eugene Blackmon, who submitted a handwritten lawsuit in 2008 claiming that officials were "deliberately indifferent" to his health. Since then, the legal effort to cool Texas prisons has escalated. Jeff Edwards, a plaintiffs lawyer in Austin, brought the class action suit involving the Pack Unit and is representing eight families whose loved ones died in hot prisons. They include Rodney Adams, a Dallas man sentenced to four years for driving while intoxicated who started convulsing shortly after arriving at the Gurney Unit in east Texas in 2012. He died less than two days after his arrival — his body temperature had reached 109.9.

For Robert Allen Webb, death didn't come as quickly.

"I'm feeling dizzy, weary, cramps, muscle spasms," Webb wrote in a medical request form in September 2009. He reported dizziness a year later and again shortly before his death in 2011, after a month that featured 18 days that climbed above 100 degrees. Prison officials do not regularly record indoor temperatures, but on the day of Webb's death the heat index was over 104 degrees outside.

To his cellmate, Roy Shehan, Webb did not appear particularly sick. "We'd soak our towels in the commode or sink and laid on them," he said. They spent the day of Aug. 3, 2011, drinking coffee and playing dominoes until Webb said he needed sleep, and Shehan helped him set up a mattress on the floor, where it was cooler. A little after 3 a.m., as officers served breakfast, Webb didn't move. He had no pulse and was frothing at the mouth. The officers tried CPR. "A boss had rolled a newspaper up and stuck it down in his mouth and was trying to blow," Shehan said.



OPENING STATEMENT

Sign up for our daily newsletter covering the best in criminal justice news.

Webb had been taking Thorazine, which like many mental health medications is known to interfere with body temperature regulation. His autopsy notes that he also had a potentially toxic amount of the drug Celexa in his system; the pathologist could not rule that out as a factor in his death, but described multiple "risk factors" that made Webb susceptible to heat stroke, including the lack of air-conditioning.

No trial date has been set in the wrongful death case filed by Webb's family. TDCJ spokesman Jason Clark declined to comment on Webb's death because the litigation is ongoing, but said the agency tries to mitigate the heat problem through ice, water, fans, and the availability of "respite areas" with air-conditioning. The chaplain who worked in Webb's unit at the time confirmed the officers did "everything they possibly could to help these guys make it through."

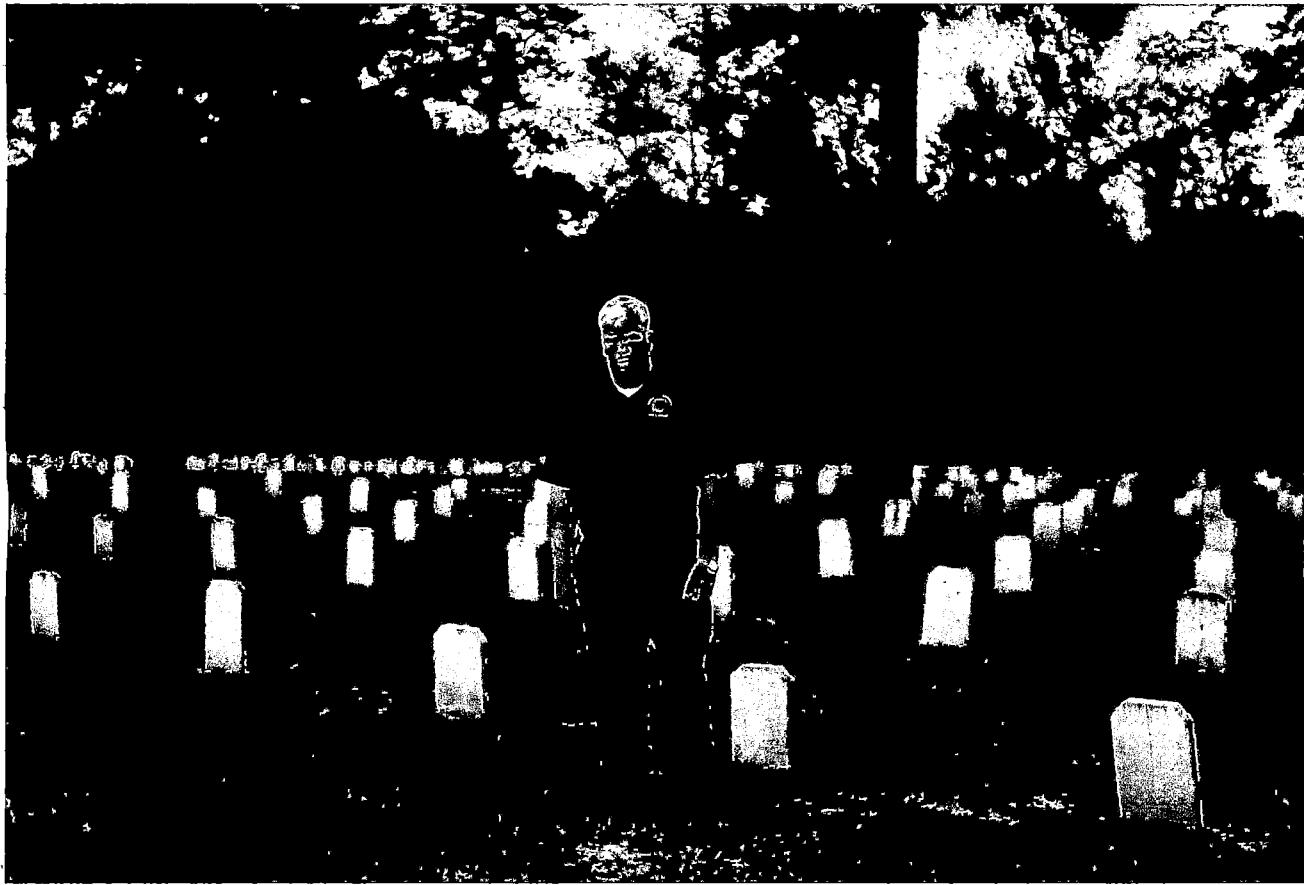
The agency released a video educating staff on how to recognize possible heat stroke, and Clark notes that there have been no documented heat-related deaths since 2012. (That point is up for

debate; the family of Quintero Devale Jones claims in a lawsuit filed last month that heat played a role in his 2015 death from an asthma attack.) “Much like those Texans who do not have access to air-conditioning in their homes, the department uses an array of measures to keep offenders safe,” Clark said in an email. “Each summer we continue to refine and improve our practices. What has not changed is our commitment to do all that we can to keep staff and offenders safe.”

The likelihood of more deaths in hot prisons and jails is an article of faith among not just inmates but correctional officers, who often complain of headaches and sometimes take night shifts to avoid the heat. The state has paid out more than \$500,000 in workers compensation claims for heat-related illnesses and injuries among staff over 11 years.

Officers were particularly incensed when the state paid \$750,000 to build climate-controlled buildings to house sows and piglets for an agricultural program to raise food for prisoners. (A spokesman’s defense: “Pigs can’t sweat.”) Lance Lowry, head of the state correctional officer union, said that the number of attempted suicides among prisoners usually rises in the summer — 93 in March 2015 versus 130 in August, for example — and that prisoners avoid taking psychotropic medications, thus increasing the risk of psychotic breaks that put staff at risk. “I don’t have love for these people,” he said. But “the incarceration is their punishment, not cooking them to death.”

Support from correctional officers could give legislators political cover to cool prisons. This appears to have happened in Kansas, where Corrections Secretary Joe Norwood told legislators in August that plans for a new prison include air-conditioning because without it, facilities are “extremely uncomfortable” for staff. So far, Texas officials haven’t made a similar move. “The state is playing Russian roulette,” Lowry said. “There will be another heat wave, and people will die.”



Sidney Webb, whose brother, Robert Allen Webb, died at the Hodge Unit in Rusk, Texas, in 2011, believes the cause was heatstroke. BRYAN SCHUTMAAT FOR THE WEATHER CHANNEL AND THE MARSHALL PROJECT

On a recent afternoon, as thunderstorms offered brief respite from the August heat, Sidney Webb drove to Huntsville to visit his brother's grave for the first time since his funeral. Allen is buried in a 22-acre state-run cemetery set aside for prisoners whose bodies are not claimed by family. Inmates dig the graves, mow the grass, and fashion the headstones. Though Sidney followed Allen's wish not to let his family pay for the burial, he had insisted on providing a casket from his own funeral supply store. At the state-contracted funeral home, he helped make his brother's face presentable before he'd let their mother see it. Later, at the burial service, Sidney remembers the loud thud as Allen's casket was accidentally dropped.

Six years after his brother's death, Sidney trudged through the rows of concrete crosses and rounded headstones that looked more to him like Halloween decorations than a proper cemetery. He searched for his brother's name, remembering it was close to two trees. The exact spot eluded him, and he grew nervous, his voice thick as he fought back tears.

"I feel he's right here close," he said. When he found the name, etched by hand, he let the tears come.

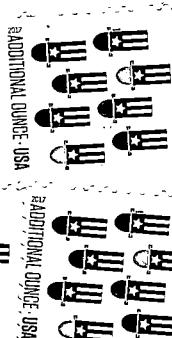
Sidney was grateful that he'd been called to make amends with Allen before his death, and wondered how much worse he might feel had he not done so. He kneeled and ran his hand along the top of the marker, wishing there was an easy way to have his brother's body moved out of this state institution, feeling like he was still trapped and without dignity.

"I want him out of here so bad," he said. ¶

M. Keerimie - Sheriff
K. Black Prison Unit 3695 Hwy 3514
Beaumont, TX 77705-2653

David J. Bradley, Clerk of Court

Searched
INDEXED
FILED
MAR 08 2018



Howard C. Keith P. Ellison
United States District Judge
Southern District of Texas
16th Floor, P.O. Box 2000
515 Pacific Street, Casemanager
Houston, TX 77002

"Legal Mail"